

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
TUESDAY, JUNE 26, 2012, AT 10:00 A.M.**

Judge Beard called this meeting to order. Officers present are listed as follows:

VAL CLARK BEARD	COUNTY JUDGE
ASA "COOKIE" STONE	COMMISSIONER PCT. 1
KATHY KILLINGSWORTH	COMMISSIONER PCT. 2
RUBEN ORTEGA	COMMISSIONER PCT. 3
BETTY JO ROONEY	TAX ASSESSOR
RONNY DODSON	SHERIFF

1. Minutes / additions / corrections / approval

The minutes from the June 11, 2012, meeting were presented for approval. Commissioner Ortega made a motion to approve the minutes, which was seconded by Commissioner Stone, and passed unanimously.

2. Treasurer

A. General Bills / Discussion and appropriate action

Deputy Treasurer Megan Antrim said she added a page to the hotel/motel tax breakdown to show a small increase to Blue Sky Associates. Also, she indicated that the third quarter worker's compensation payment is included in the general bills. It was \$12,510.

Commissioner Ortega made a motion to approve the general bills, which was seconded by Commissioner Killingsworth, and passed unanimously.

Commissioner Killingsworth abstained from 76701, and Judge Beard abstained from any KALP bills.

B. Financial Reports / Updates, Discussion, Review and appropriate action

Specified Activity Report	Cash Report
Cash Flow Predictions	Payroll Reports
Budget Analysis Usage Report	Check Register
Receipt File Listings	Other Financial Reports as Requested by Commissioners

C. Law Enforcement Grant Reimbursements and other general administrative matters related to these Grants / Discussion and appropriate action

2009 Operation Stonegarden Grant	HIDTA / Lonestar
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Operation Linebacker

Border Star JAG

Ms. Antrim said a \$48,000 Stonegarden bill for \$48,000 for radios hasn't been paid yet as they are waiting for reimbursement. She said they are waiting on the last Linebacker reimbursement. They are working to clear out the Border Star Jag and HIDTA accounts, but they want to make sure nothing overlaps.

D. Transfer between accounts to maximize security & investment return / PILT Assets / Discussion and appropriate action

Judge Beard said the PILT has been received. She said she understands that Treasurer Ofenstein is taking steps to make sure the amount is secure and to then transfer it to TexPool to collect interest.

Ms. Antrim said the money hasn't been transferred to TexPool.

Commissioners noted that it won't draw much interest at all without being moved to TexPool. They agreed that much of it will be needed for operations, especially during the summer months before ad valorem tax payments start coming in.

Judge Beard noted that Commissioners are asking for cash flow information from the Treasurer's Office which they are not getting. They need the information in order to make essential decisions.

E. Allocation of PILT funds for San Vicente ISD & Terlingua CSD / Discussion and appropriate action

F. Other general administrative & procedural matters related to Treasurer's Office / Discussion and appropriate action for work of Treasurer's Office to go forward

Ms. Antrim noted that electricity is at a peak and rates are going to increase. Conservation is in order.

Commissioner Killingworth said she thought we were locked into a rate.

Ms. Antrim said there is a flex rate.

3. Officials' Monthly Reports / Discussion and appropriate action

No reports were presented.

4. Road & Bridge Department / Community Facilities

A. Road & Bridge Superintendent's Report

General updates on maintenance and repairs for all county roads; road materials including, fuel, supplies including usage & inventories & future needs; budgetary matters, equipment including heavy equipment, (maintenance repairs, future needs, replacement and additions), pickups, trailers and other light vehicles and accessories, and small equipment, (usage, future needs), equipment rentals;

facilities (yards in Alpine, Marathon and S. County) and community facilities (assistance with maintenance and other related issues); assistance to other governmental entities and emergency responders; personnel issues, (vacancies, new hires, discipline, performance, safety and other general personnel matters); permits for boring or trenching for utilities across County Roads / Discussion and appropriate action

Supt. Frenchie Causey said they hauled 16 loads of sand and gravel for the septic tank project. They spent most of last week filling in culverts and ditches created by rain. They also cleaned out some turn-outs on Terlingua Ranch Road. They worked on the dirt at the South County ERC for a new pad. They worked on streets in Marathon, mostly on driveways and streets where water runs through yards. They also patched some bad spots in some roads, and started sweeping some streets; however, the sweeper broke, but is now repaired.

B. TxDot Border Colonia Access Paving Grant / Matters related to concluding Project / Discussion and appropriate action to complete Terlingua Springs paving project, including other appropriate action regarding construction matters, payments, inspections and concluding project

Engineer Travis Roberts said he spoke with Reese Albert, who is willing to sell the excess base materials to the County for \$1/ton.

Commissioner Killingsworth said after wrapping up the materials acquisition, the project should be complete.

C. County Judge's comments concerning Commissioners Court & County Judge's procedures related to issues about County Roads within each Commissioner's precinct / Discussion

Judge Beard said she wants to give a brief review of how things work with County roads. All assets and crews are in one department under the supervision of Mr. Causey (the unit road system). Commissioner Stone has been designated the supervisory commissioner. All decisions concerning changes, alterations or improvements must originate with the commissioner in whose precinct the road is.

Substantial matters which come before the entire Commissioners Court are related to the budget.

On many occasions, people have tried to go over the heads of their Commissioners, and make a direct call to the Judge's office. They will always be referred to Mr. Causey, or on more significant matters, to their Commissioner.

5. County Emergency Management Office

A. General Report including:

Recent emergency responses; emergency planning update; recent work

with cooperating emergency responders: (ESD #1, all VFD's and EMS); update on needs, programs, training, recent work with other governmental entities; equipment for emergency response and updates regarding needs, maintenance, repairs, replacement and additions; burn emergency management issues related to public and private bans, insurance coverage, personnel issues related to emergency response, exercises & drills, matters related to pending & future Homeland Security & FEMA Grants and matters related to 911 & 911 addressing / Discussion and appropriate action

EMC Tom Santry said a few weeks ago, a telephone line was severed in the Grandfalls area, causing problems with the 911 system. There have been a couple of other instances since then where 911 service for other communities was transferred to Brewster County due to cut lines. He is working with the COG to make sure we are efficiently notified of the issue, and to create a way to handle 911 calls in and out of the County in case of such an event.

Mr. Causey said he received a quote on a 250k diesel generator capable of running any pump within Brewster County. The cost is \$73,000.

Judge Beard said we still don't know if the Homeland Security funding is available; this is very preliminary, and an electrical engineer will likely need to be consulted at some point.

B. Lack of outside fire fighting resources in Far West Texas due to wildfires in New Mexico & Colorado / Review of situation / Discussion and appropriate action

Mr. Santry said a small wildfire burned south of Alpine on the 101 Ranch. The Forest Service was very much unavailable due to a lack of resources. Those resources were in New Mexico and Colorado. Luckily, the wind shifted and there was some rain during the night.

Mr. Santry and Judge Beard re-emphasized the need for great care due to dry conditions.

C. Discussion and appropriate action for general administrative work of Emergency Management Office to go forward

6. Pending Infrastructure Grant Matters

A. Colonia Construction Fund Application / (2nd Septic Tank Replacement grant for S. Brewster County)

- 1. Update on Project & Application Process***
- 2. General and administrative matters related to going forward with and concluding program including approval of additional applicants, bids & proposals, payments to contractors and professionals & other related matters / Discussion and appropriate action to go forward with and***

conclude grant project

Grant Administrator Jerry Carvajal presented the final four applicants to Commissioners.

Commissioner Killingsworth made a motion to approve the applicants, which was seconded by Commissioner Ortega, and passed unanimously.

Mr. Carvajal said it will bring the total of the systems installed to 51.

B. 2011/2012 Texas Department of Rural Affairs Grant Program (R.O. facility for Study Butte Water Corp.) / Update / Discussion and appropriate action to go forward with grant

Mr. Carvajal said the engineer has been to look at the system and has submitted the plans to TCEQ for approval.

The engineer, Travis Roberts, said there are two water wells which pump into a ground storage tank. The water goes to a single R.O. unit. That unit will produce 113 gallons/minute. The TCEQ requires two R.O. units in case one goes down. His plan is to add a duplicate unit, including the valves, and treatment systems.

C. 2013-2014 TXCDBG Application Process / Discussion and appropriate action concerning submittal of application & related matters

Mr. Carvajal said TDA is hosting an application workshop in early July. The first public hearing is planned in Marathon on Monday, July 9, at 6 p.m.

7. Pending Litigation / Consultation with Attorney

Civil Action No. P-11CV-094, Pascual Q. Olibas and Cheryl Olibas, Individually and D/B/A Freedom Bail Bonds, Plaintiff V. Ronny Dodson, As Sheriff of Brewster County, Texas and Brewster County, Texas Defendant, In the United States District Court, Western District of Texas

A. Executive Session Pursuant to § 551.071, Government Code, VTCA, to seek the advice of counsel concerning pending litigation, a settlement offer, and/or privileged matters

At 10:25 a.m., Judge Beard announced that Commissioners Court was into executive session pursuant to §551.071, Government Code, VTCA, to discuss pending litigation related to the Olibas case. The courtroom was cleared of all but Commissioners Court and County Attorney Steve Houston. Attorney Greg Hudson participated by phone.

Reconvene in Open Session

At 11:00 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session related to the Emergency

Management Department, pursuant to §551.071, Government Code. She asked if there was any action to be taken.

No action was taken.

B. Discussion and appropriate action in related to the above litigation resulting from Executive Session

8. Sheriff's Office / Abandoned Vehicle Auction / Sheriff's request to auction (2006 White Chevrolet Pickup VIN 1GCEK13Vo61288306 and 2006 Silver Jeep VIN 1J4FA49S26P745880 asset forfeiture vehicles) / Discussion and appropriate action

Sheriff Dodson said these two vehicles belong to the County, and he needs Commissioners' approval to sell. There are 25 total vehicles.

Commissioner Ortega made a motion authorizing the sell of the two vehicles, which was seconded by Commissioner Stone, and passed unanimously.

9. Tri County Juvenile Board

A. Tri County Juvenile Board Chairman's remarks concerning history of Tri County Juvenile Department, work of & approach of Juvenile Department

Judge Beard said the department was created sometime back because there was a feeling that they were then involved in a department that was reactive rather than proactive. They felt that they needed a department that would deal with the issues involving area youth before the juveniles were in serious trouble.

Judge Beard said that many times, because someone doesn't know a service is available, they assume that nothing is available. She said nothing can be further from the truth.

B. Chief Juvenile Probation Officer's yearly report, including work of department, facilities for detention and other placements, fiscal matters, programs, issues concerning the merger of TJPC & TYC, issues concerning cost of handling juvenile illegal aliens and other issues related to Brewster County Juveniles / Discussion and appropriate action

Chief Juvenile Probation Officer Jerry Castellano said the year began with a fiscal battle. State funding will remain the same. It will not increase. The department will receive just over \$115,000, which will cover his salary and the salary of his two officers. They will receive \$12,500 for youth who need placement. At best, this may serve two juveniles who require placement. They will receive \$10,000 for counseling from the COG.

The department will continue to utilize local agencies, including Aliviane for outpatient counseling for alcohol and substance abuse, which is on the rise, and Applied Alternatives for behavioral problems.

The department uses a facility in Hays County for high risk children, and another facility in Hondo. They use detention centers in Midland, San Angelo and Del Rio for juveniles who need to be held for 2-3 days before a court date. The cost ranges from \$80-\$110/day.

In lieu of detention, the department has reintroduced an electronic monitoring program.

The department is participating in a public awareness campaign concerning the effort of drug cartels to recruit youth.

Mr. Castellano noted that he receives a \$15,000 detention budget annually. One child, a Mexican national, who was turned over to the department after being detained by federal agents was housed at a cost of \$16,500.

He is working with other area chiefs to inform TYC of the ever-increasing cost, and on legislation that would keep Mexican national youth from counting against the total budget.

Currently, the department is working to find summer jobs for some of the lower risk juveniles.

Judge Beard said the department is working in an uncertain environment at the state level. She said the merger of the TJPC and TYC is not going as smoothly as they'd hoped.

C. Judge's report on renovation work in Old Library for Juvenile Offices

Judge Beard said the renovation work is coming along. It's more a clean-up than a major renovation. Hopefully, we'll be able to do a walk-through at the first meeting in July.

10. County Emergency Management Office/ Personnel

A. Executive Session Pursuant to Section § 551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee

At 11:45 a.m., Judge Beard announced that Commissioners Court was into executive session pursuant to §551.074, Government Code, VTCA, to discuss the duties of the appointment, employment, evaluation, reassignment, duties, compensation or dismissal of a public officer or employee related to the Emergency Management Department. The courtroom was cleared of all but Commissioners Court.

Reconvene in Open Session

At 11:52 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session related to the Emergency Management Department, pursuant to §551.074, Government Code. She asked if there was any action to be taken.

B. Discussion and appropriate action resulting from Executive Session

Commissioner Killingsworth made a motion to authorize a \$100/month supplement for Betse Esparza for her deputy emergency management coordinator duties beginning July 1. The funds will be taken from unexpended funds in the Emergency Management Budget. Commissioner Ortega seconded the motion, which passed unanimously.

11. Treasurer's and Commissioners Court Financial & Budget Workshop, including

A. Issues related to cash management strategies for June/July 2012 & related planning issues & procedures regarding County finance

Commissioners decided to wait to take up these matters because they need some more information.

It was noted that \$320,393 of the PILT payment has been committed to I&S for 2013.

Cash flow project for July-September will be needed.

B. General discussion concerning implementation of new financial procedures

C. Other general matters including Judge & Commissioner's comments concerning development & goals of 2013 Budget and County Finances

Judge Beard said Commissioners are not getting what they need to have meaningful discussions. Things need to move forward.

Recess / Reconvene at 1:30 P.M.

12. Alpine Public Library / Marathon Library Facility / APL's request to consider alternative means to provide Town of Marathon with library services

A. Judge's review of legal framework of relationship between APL & County

Judge Beard said Commissioners Court has a long-standing relationship with the public library, including the Marathon branch.

She said APL is a non-profit, a stand alone entity which governs itself. That's relatively unusual in Texas, but it is specifically provided for in Texas law. Facilities like this non-profit can contract with other governmental entities, such as a city or county, to provide public library services.

Long before she was County Judge, she said it was clearly understood that the funding for the APL was contingent upon keeping the Marathon branch in operation.

She said when the APL Board embarked upon the new building, Commissioners Court supported it to the fullest. She said that no Commissioner nor she ever said it

wasn't cost effective. Anyone who has ever worked in public service know that it costs more to do anything in rural areas.

Judge Beard said that when they started on the new building project, Commissioners were impressed by how much people loved the library. People in Marathon love their little library, too, she said.

Judge Beard said the idea of a book mobile or closing the MPL did not come from Commissioners Court. She said she has read over the APL presentation, and she is prepared to listen.

However, she said the presentation notes a decrease in County funding.

She noted increases in funding since 2006. Additionally, in 2009 and 2010, the County contributed additional funding directly to construction. In 2012, \$5,000 was shifted to the Marathon branch for HVAC or major maintenance issues.

B. Presentation by APL Board regarding issues with keeping Marathon Public Library Facility Open / Other financial issues related to APL

APL Board Pres. Chris Ruggia said that questions have been raised in the spirit of discussion as concerns funding. He said they don't take their missions lightly, and that they are dealing with several issues. They are cognizant of the needs of the community. He said they will meet with Marathon community members on Thursday.

Ken Durham, the board's treasurer, presented a PowerPoint presentation.

He said patronage has been decreasing over the last 3-5 years. Computer use outweighs use of the main library by almost double. DVD circulation is extremely high.

Funding is always an issue.

Mr. Durham said services can be delivered in alternative ways. Marathon patrons can utilize the main library (and already do) for DVDs and books. Vending machine-type options are being explored. Computer access could be placed in a rent-free public place. Volunteers could continue to provide children's programs.

C. Discussion / Question & Answer with Commissioners & APL Board Representatives

Commissioner Killingsworth said South County residents have taken it upon themselves to provide library services in their area because there is nothing available through Alpine.

She said that had Commissioners known when they embarked upon a new library that shutting down Marathon was an option, their decisions would have been different.

Commissioner Ortega said he agrees. Marathon residents do use the library. When you break down the numbers, he thinks just as many Marathon residents use their library as do those in Alpine.

He said having a meeting Thursday makes no sense. They should have come to Marathon at the start.

Judge Beard agreed. She said they have been presented a well-developed plan that gives the appearance of a "done deal." She reminded board members that funding is contingent upon the Marathon facility staying open.

Mr. Durham said he felt like they shouldn't come to Commissioners without hard data.

Commissioner Killingsworth said that closing the Marathon library is absolutely unacceptable. She said the library board needs to find other funding sources.

Commissioner Stone said that he is not in favor of closing the MPL.

Commissioner Ortega said that getting together for fundraisers is not impossible. He said that's the way to do it.

Mr. Durham said they need to find the people who are willing to do the work.

D. Opportunity for Public Comment concerning the above presentation & Marathon Public Library / Discussion

Neil Harrison, the Marathon ISD superintendent, said the library is very important to their summer reading program. For that alone, he'd like to see that it stay open. He'd like to see some Saturday morning programs, as well.

Marcy Roberts said she very much appreciates the support of Commissioners Court. She said Judge Beard is right when she says the library isn't just a service, it's a "place." She said she is disappointed that Marathon residents weren't included in the brainstorming for solutions.

Diane Bailey, a Marathon resident, said she is supportive of libraries, even if there is only one person who uses it. She said the hostility was created by rumors, and Marathon residents should have been included.

Travis Roberts, a resident, said he would hope that Marathon would maintain a library from now on. Finances become a problem sometimes, but they can be solved.

As constructive criticism, he said that when a book is given to the library as a memorial, it needs to be valued. He noted a high value book which was being sold at a \$5/bag book sale.

Jacqueline Boyd, a retired teacher who lives in Marathon, donates her time once a week teaching ESL. She has also donated many supplies. She said it is so important to keep the library open, especially for use during the summer months. Through her program, she is also trying to teach parents that they need to be involved in their children's lives.

Zachary (no last name given) said almost half the school kids participate in the library programs. The programs give smaller children the experience of being at school.

Danielle Gallo said she finds it odd and somewhat offensive that usage is dropping. She said more attention should be paid, and not less. Even if Marathon doesn't have the best school or a median income, they do have a library.

Barbara Standhardt said children need to be taught to love to read. She said there is no experience like wandering the stacks and finding a wealth of information and history.

Mr. Ruggia apologized for the perception and any reality that there was a failure to reach out. He said there is clearly a feeling that we're doing things in the wrong order, in the wrong way. He said they are volunteers, trying to do their best. He said he hopes that on Thursday, the conversation will come from a shared desire for a positive outcome.

David Thomason, Marathon, said that had things gone as planned, this would have been the first residents had heard of it. The information was leaked in Marathon.

E. Discussion and appropriate action concerning Marathon Public Library, ongoing county funding for APL & related issues

Judge Beard said Commissioners will continue to be willing to engage in discussion. However, she said they have a strong commitment to keeping the facility open.

Commissioner Killingsworth made a motion that while discussion with the APL board shall continue, for funding to continue for the Alpine branch, services must continue at the Marathon facility. Commissioner Ortega seconded the motion, which passed unanimously.

13. Brewster County Historical Commission / Recognize receipt of distinguished service award from the Historical Commission

Judge Beard said that Travis Roberts is the chairman of the very active Brewster County Historical Commission. Once again, the Brewster County Historical Commission has presented the Distinguished Service Award by the Texas Historical Commission.

Mr. Roberts recognized Ted Gray, King Terry, Hr. and William Donnell, all of whom have passed away.

Mr. Roberts said Brewster County has been recognized in nine out of the last 10 years.

14. Road & Bridge Budget Workshop / Discussion of matters related to Road & Bridge Budget including 2013 work, equipment, materials & personnel need / facilities & means of finance / Discussion only / No action

A couple of years ago, Judge Beard said Commissioners decided that they needed to accelerate the maintenance program, such as seal-coating, etc.

Supt. Frenchie Causey said that in 2004, a bunch of roads were paved in Sunny Glen. He said, basically, they need to start thinking about major maintenance on them.

Terlingua Ranch Road was finished in 2003. Mr. Causey said if they don't do something soon, they will have to start over. It's in bad shape.

The Post Road was started, but they lack a couple of miles. It's starting to get brittle.

Right now, it costs \$14,000 for 6,000 gal tanker of oil. Mr. Causey said his roads budget is in the red right now.

The last tanker of oil he received was not in great condition. He's been trying to figure out a way to avoid that in the future.

Commissioner Killingsworth asked if he had the budget, how many miles could he do in a year? Mr. Causey said the crew could probably do 20 miles in a summer. That would cost approximately \$400,000.

Mr. Causey said he has tried to haul his own asphalt, but he spent more time working on broken down trucks.

Judge Beard asked about equipment needs, but said she doesn't think the County can afford anything right now.

Commissioner Ortega noted that the Department will probably need a new pick-up pretty soon. The current 2005 has 200,000 miles on it.

Judge Beard asked what the Department needs to operate next year in order to keep up with the accelerated maintenance program.

Mr. Causey said he has all the asphalt he can use right now. He would need to buy two or three loads of pre-mix, and spend the rest of the budget on oil.

Judge Beard said it's possible, that to maintain what we have now, we may need to stop any new paving for now.

As far as equipment, Mr. Causey said he is happy with what he has.

Commissioner Ortega made a motion to adjourn, which was seconded by Commissioner Stone, and passed unanimously.

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK